

COMMITTEE ON BANKING AND INSURANCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2334

(Reference to printed bill)

1 Page 1, strike lines 21 through 24, insert:

2 "C. If, to obtain an estate tax marital deduction for a trust, a
3 trustee must allocate more of a payment to income than provided for by this
4 section, the trustee shall allocate to income the additional amount necessary
5 to obtain the marital deduction. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION D
6 OF THIS SECTION, SUBSECTIONS E AND F OF THIS SECTION APPLY, AND SUBSECTIONS A
7 AND B OF THIS SECTION DO NOT APPLY, IN DETERMINING THE ALLOCATION OF A
8 PAYMENT MADE FROM A SEPARATE FUND TO:

9 1. A TRUST TO WHICH AN ELECTION TO QUALIFY FOR A MARITAL DEDUCTION
10 UNDER SECTION 2056(B)(7) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED,
11 26 UNITED STATES CODE. SECTION 2056(B)(7), AS AMENDED, HAS BEEN MADE.

12 2. A TRUST THAT QUALIFIES FOR THE MARITAL DEDUCTION UNDER SECTION
13 2056(B)(5) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, 26 UNITED STATES
14 CODE SECTION 2056(B)(5), AS AMENDED.

15 D. SUBSECTIONS C, E AND F OF THIS SECTION DO NOT APPLY TO THE EXTENT
16 THAT THE SERIES OF PAYMENTS, WITHOUT THE APPLICATION OF SUBSECTION C OF THIS
17 SECTION WOULD QUALIFY FOR THE MARITAL DEDUCTION UNDER SECTION 2056(B)(7)(C)
18 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, 26 UNITED STATES CODE
19 SECTION 2056(B)(7)(C), AS AMENDED.

20 E. A TRUSTEE SHALL DETERMINE THE INTERNAL INCOME OF EACH SEPARATE FUND
21 FOR THE ACCOUNTING PERIOD AS IF THE SEPARATE FUND WERE A TRUST SUBJECT TO
22 THIS ACT. ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL DEMAND THAT
23 THE PERSON ADMINISTERING THE SEPARATE FUND DISTRIBUTE THE INTERNAL INCOME TO
24 THE TRUST. THE TRUSTEE SHALL ALLOCATE A PAYMENT FROM THE SEPARATE FUND TO
25 INCOME TO THE EXTENT OF THE INTERNAL INCOME OF THE SEPARATE FUND AND
26 DISTRIBUTE THAT AMOUNT TO THE SURVIVING SPOUSE. THE TRUSTEE SHALL ALLOCATE
27 THE BALANCE OF THE PAYMENT TO THE PRINCIPAL. ON REQUEST OF THE SURVIVING
28 SPOUSE, THE TRUSTEE SHALL ALLOCATE PRINCIPAL TO INCOME TO THE EXTENT THE
29 INTERNAL INCOME OF THE SEPARATE FUND EXCEEDS PAYMENTS MADE FROM THE SEPARATE
30 FUND TO THE TRUST DURING THE ACCOUNTING PERIOD.

1 F. IF A TRUSTEE CANNOT DETERMINE THE INTERNAL INCOME OF A SEPARATE
2 FUND BUT CAN DETERMINE THE VALUE OF THE SEPARATE FUND, THE INTERNAL INCOME OF
3 THE SEPARATE FUND IS DEEMED TO EQUAL FOUR PER CENT OF THE FUND'S VALUE,
4 ACCORDING TO THE MOST RECENT STATEMENT OF VALUE PRECEDING THE BEGINNING OF
5 THE ACCOUNTING PERIOD. IF THE TRUSTEE CAN DETERMINE NEITHER THE INTERNAL
6 INCOME OF THE SEPARATE FUND NOR THE FUND'S VALUE, THE INTERNAL INCOME OF THE
7 FUND IS DEEMED TO EQUAL THE PRODUCT OF THE INTEREST RATE AND THE PRESENT
8 VALUE OF THE EXPECTED FUTURE PAYMENTS, AS DETERMINED UNDER SECTION 7520 OF
9 THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, 26 UNITED STATES CODE
10 SECTION 7520, AS AMENDED, FOR THE MONTH PRECEDING THE ACCOUNTING PERIOD FOR
11 WHICH THE COMPUTATION IS MADE."

12 Reletter to conform

13 Page 1, line 34 after the period, insert "FOR PURPOSES OF SUBSECTIONS C, D, E, AND
14 F OF THIS SECTION, PAYMENT ALSO INCLUDES ANY PAYMENT FROM ANY SEPARATE FUND,
15 REGARDLESS OF THE REASON FOR THE PAYMENT."

16 Page 2, line 2, after "allocated" insert "ONLY"

17 After line 8, insert:

18 "3. PROPORTIONATELY FROM PRINCIPAL AND INCOME TO THE EXTENT THAT
19 RECEIPTS FROM THE ENTITY ARE ALLOCATED TO BOTH INCOME AND PRINCIPAL.

20 4. FROM PRINCIPAL TO THE EXTENT THAT THE TAX EXCEEDS THE TOTAL
21 RECEIPTS FROM THE ENTITY.

22 D. AFTER APPLYING SUBSECTIONS A, B AND C OF THIS SECTION, THE TRUSTEE
23 SHALL ADJUST INCOME OR PRINCIPAL RECEIPTS TO THE EXTENT THAT THE TRUST'S
24 TAXES ARE REDUCED BECAUSE THE TRUST RECEIVES A DEDUCTION FOR PAYMENTS MADE TO
25 A BENEFICIARY."

26 Amend title to conform

and, as so amended, it do pass

NANCY MCLAIN
Chairman

2334-bi
2/16/09
H:jjb